

Smith, Steve

---

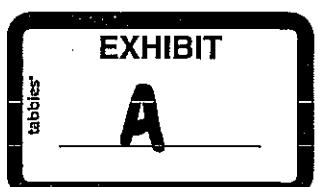
**From:** Edward L. Rothberg [rothberg@hooverslovacek.com]  
**Sent:** Friday, May 28, 2010 11:12 PM  
**To:** Chris Limpus; Smith, Steve; efryar@fryarlawfirm.com; sg@sgalaw.com; efreeman@porterhedges.com  
**Cc:** Robert Manley; Hugh M. Ray, III; Nancy J. Jones; Nancy Felix; Ivan Wang  
**Subject:** RE: Schermerhorn et al v. CenturyTel, Inc. et al  
**Attachments:** Temporary Injunction Order.DOCX; Proposed Order on Motion to Consolidate.DOC

Attached are drafts of the Consolidation Order and the Temporary Injunction Order. I know I need to add the signature blocks on the TI order, but we can do that later. I provided that the plaintiffs are temporarily enjoined from pursuing all defendants on any and all causes of action. The reason I did this is because I do not want any suits being filed until we have either agreed on or the judge has ruled on what is a derivative claim and what is a direct claim. I believe this protects all parties against future potential problems. After the Judge enters a final judgment, we can enjoin all derivative claims which have been dismissed with prejudice and we can lift the temporary injunction with respect to direct claims which have only been dismissed without prejudice. If you disagree with this approach, please reply with your reasoning.

**Edward L. Rothberg**  
Board Certified in Business Bankruptcy  
by the Texas Board of Legal Specialization



5847 San Felipe, Suite 2200  
Houston, Texas 77057  
Office: 713.977.8686  
Fax: 713.977.5395  
[rothberg@hooverslovacek.com](mailto:rothberg@hooverslovacek.com)  
[www.hooverslovacek.com](http://www.hooverslovacek.com)



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:	§	
	§	
SKYPORT GLOBAL	§	CASE NO. 08-36737-H4-11
COMMUNICATIONS, INC.,	§	(Chapter 11)
Debtor	§	
JOANNE SCHERMERHORN, JOHN K.	§	
WAYMIRE, ET AL.,	§	
PLAINTIFFS	§	
VS.	§	ADVERSARY NO. 10-03150
	§	
CENTURYTEL, INC. (A/K/A CENTURYLINK),	§	
CLARENCE MARSHALL, ET AL,	§	
DEFENDANTS	§	

**ORDER GRANTING APPLICATION FOR PRELIMINARY INJUNCTION**

Defendants, SkyPort Global Communications, Inc. (“Skyport”), Robert Kubernus, and Balaton Group, Inc., have applied to this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, as incorporated by Bankruptcy Rule 7065, for an order temporarily enjoining Plaintiffs from violating the Order Confirming Plan of Reorganization, As Modified entered on August 12, 2009, at Doc. #340 in Case No. 08-36737-H4-11. On May 27, 2010, the Court held an evidentiary hearing on this application where all parties appeared, and presented documentary evidence, testimonial evidence and oral argument. At the conclusion of the presentation after carefully considering all evidence and oral argument, the Court read its finding and conclusions into the record, and determined that:

1. Applicants established a substantial likelihood of success on the merits.
2. Applicants established that absent granting of the temporary injunction they would incur irreparable harm.

3. Applicants established that absent granting of the temporary injunction, the injury they would incur far outweighs the harm to the Plaintiffs.

4. Applicants established that granting of the temporary injunction serves the public interest.

Based on the foregoing as well as all of the findings of facts and conclusions of law read into the record, the Court is of the opinion that the temporary injunction should be granted. Therefore, it is

ORDERED that the temporary injunction is granted; it is further

ORDERED that Plaintiffs are temporarily enjoined from pursuing any and all claims or causes of action, derivative or direct, against all of the Defendants; it is further

ORDERED that the Plaintiffs shall strictly comply with all terms and conditions of the Order Confirming Plan referred to above as well as the plan and modification attached thereto.

DATED:

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:	§ §	
SKYPORT GLOBAL COMMUNICATIONS, INC.,	§ §	CASE NO. 08-36737-H4-11 (Chapter 11)
Debtor	§	
SkyPort Global Communications, Inc., Balaton Group, Inc., and Robert Kubernus, Plaintiffs	§ § § §	
VS.	§ §	ADVERSARY NO. 10-03225
Joanne Schermerhorn, et. al.	§	
JOANNE SCHERMERHORN, JOHN K. WAYMIRE, ET AL., PLAINTIFFS	§ § § §	
VS.	§ §	ADVERSARY NO. 10-03150
CENTURYTEL, INC. (A/K/A CENTURYLINK), CLARENCE MARSHALL, ET AL, DEFENDANTS	§ § §	

**UNOPPOSED ORDER GRANTING MOTION TO CONSOLIDATE  
ADV. NO. 10-3225 WITH ADV. NO. 10-3150**

SkyPort Global Communications, Inc., Robert Kubernus, and Balaton Group, Inc., Plaintiffs in Adv. No. 10-03225, have moved this Court pursuant to Rule 42 of the Federal Rules of Civil Procedure, as incorporated by Bankruptcy Rule 7042, for an order consolidating Adv. No. 10-03225 with Adv. No. 10-03150. On May 27, 2010, the Court held a hearing on this Motion where all parties appeared and announced that the Motion was unopposed. Therefore, the Court is of the opinion that the Motion should be granted. Accordingly, it is

ORDERED that Adv. No. 10-03150 be and is hereby consolidated with Adv. No. 10-3225; it is further

ORDERED that Skyport Global Communications, Inc., Plaintiff if Adv. No. 10-3225, shall be added as a defendant, in Adv. No. 10-3150; it is further

ORDERED that all pleadings shall be filed in Adv. No. 10-03150.

DATED: \_\_\_\_\_

---

HONORABLE JEFF BOHM  
UNITED STATES BANKRUPTCY JUDGE